

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA  
Plaintiff

v.

[37] EMMANUEL TORRES-SUAREZ,  
Defendant

Criminal No. 07-121 (ADC)

OPINION AND ORDER

After being charged, along with forty-one (41) individuals, for having conspired to intentionally and knowingly possess with intent to distribute controlled substances, defendant Emmanuel Torres-Suárez (hereafter Torres) moved to suppress the evidence seized as a result of searches conducted by state police officers on October 22, 2003 (Overt Act No. 39) and July 31, 2003. (**Docket Nos. 1 and 623**). The government opposed defendant's request (**Docket No. 721**).

Upon the matter being referred to a Magistrate Judge for Report and Recommendation, an evidentiary hearing was held on January 15, 2008 (**Docket No. 795**). Testimonies of state police officers Tommy Hernández-Santiago, Harold Ortiz-Hernández, Javier Laboy-Montañez and FBI Agent Irvin O'Fray-Vázquez testified at the hearing. Thereafter, pursuant to the evidence presented at the suppression hearing, Chief Magistrate-Judge Justo Arenas issued on January 18, 2008, a Report and Recommendation. It was recommended that defendant's motion to suppress "be GRANTED in relation to the October 22, 2003 seizure." In relation to the July 31, 2003 seizure, the Chief Magistrate-Judge concluded there was sufficient

information on record, substantiating the collective knowledge and information in possession of state officers to reasonably determine that a crime was being committed and that defendant had committed it. Accordingly, as it relates to the July 31, 2003 seizure, it was the Magistrate-Judge's recommendation that the suppression ought to be DENIED. (**Docket No. 827**).

This Court has reviewed the entire record, the Magistrate-Judge's findings of fact concerning the testimonies presented at the suppression hearing and his conclusions of law. Both, conclusions of fact and law remain unchallenged inasmuch as the parties have not objected to the Report and Recommendation. This Court concurs with the Magistrate-Judge's analysis and determination regarding the existence or not of exigent circumstances allowing for warrantless searches of premises where the defendant was or resided.

Accordingly, the Report and Recommendation is **ADOPTED** and evidence seized on October 23, 2003 is **ORDERED** suppressed. Defendant's motion is **DENIED** as it relates to the July 31, 2003 seizure.

**SO ORDERED.**

At San Juan, Puerto Rico, this 12<sup>th</sup> day of February, 2008.

**S/AIDA M. DELGADO-COLON**  
**United States District Judge**